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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/646,764	03/04/2004	Peter Anthony Miller		7131
7590	12/14/2004		EXAMINER	
Peter Anthony Miller			SHERRER, CURTIS EDWARD	
2 Low Heightley Cottage			ART UNIT	PAPER NUMBER
Morpeth, NE61 3BY				
UNITED KINGDOM			1761	

DATE MAILED: 12/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.	09/646,764	Applicant(s)
Examiner	Curtis E. Sherrer, Esq.	Art Unit
		1761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

1) Responsive to communication(s) filed on \_\_\_\_\_.  
2a) This action is **FINAL**.                    2b) This action is non-final.  
3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

4) Claim(s) 1-7 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.  
5) Claim(s) \_\_\_\_ is/are allowed.  
6) Claim(s) 1-7 is/are rejected.  
7) Claim(s) \_\_\_\_ is/are objected to.  
8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

9) The specification is objected to by the Examiner.  
10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All    b) Some \* c) None of:  
1. Certified copies of the priority documents have been received.  
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

1) Notice of References Cited (PTO-892)  
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) Notice of Informal Patent Application (PTO-152)  
6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Drawings***

Figure 1 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.121(d)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims are indefinite because they do not rely on one of the U.S. patent preamble phrases, i.e., comprising, consisting or consisting essentially of. The instant phrase, "characterized," is being interpreted as the equivalent of the phrase "comprising."

The claims are also indefinite because the process claims do not positively recite the method step, e.g., "dosing" rather than "dosed."

Claim 1 is indefinite because there is no antecedent basis for the phrases "the movable dependent edges" and "the processed liquids."

Claims 1 and 7 are indefinite because the scope of the phrases "lid-like form" is unknown.

### ***Claim Rejections - 35 USC § 102***

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 5 is rejected under 35 U.S.C. 102(e) as being anticipated by Irwin et al. (USPN 6,207,208) ("Irwin").

Irwin teaches the addition of bentonite (an adsorbent) to beer or wort (col. 3, lines 32-38) at a rate of 0.1 to 60 grams per liter (100 to 60,000 ppm). (Col. 5, lines 1-34). In the Example, Veegum clay, a complex magnesium aluminum silicate is used in treating a lager beer.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Molzahn *et al* (GB Pat. No. 1,571,480) ("Molzahn") or Kerr (GB pat. No. 1,388,666) in view of Miller (GB Pat. No. 2,280,857).

Both Molzahn and Kerr teach the well known use of band filters for filtering beer process fluids. See both disclosures generally, specifically, page 1, lines 54-72 and page 1, lines 27-44, respectively. They do not teach the details claimed. Miller teaches the same apparatus ( see instant specification, first page, bottom) as claimed and its use to filter beverages, (page 2, last paragraph). It would have been obvious to those of ordinary skill in the art to use the band filter of Miller in the processes of Molzahn or Kerr as the Miller filter provides a high degree of cleanliness and sterility.

Applicant's claims also recite limitations directed to heating and cooling of the mash and because heating and cooling of the mash stream is notoriously well known it would have been obvious to those of ordinary skill in the art to heat and cool the mash as claimed as this is a well known beer process step. Applicant also claims a specific mean particle size for the grain and because the grist size is a result effective variable, i.e., the smaller the grain, the better the extraction, it would have been obvious to those of ordinary skill in the art to optimize the size of the grain in order to obtain the best extraction.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hardwick (Handbook of Brewing, page 339).

Hardwick teaches the use of pressure fermentations when performing high temperature brewing. It is well known to use CO<sub>2</sub> overpressure when using higher temperatures and it would

have been obvious to monitor the CO<sub>2</sub>, pressure and temperature of the fermentation as these parameters are critical in obtaining the desired fermentation results.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Curtis E. Sherrer, Esq. whose telephone number is 571-272-1406. The examiner can normally be reached on Tuesday-Friday, 8AM-6:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Curtis E. Sherrer, Esq.  
Primary Examiner  
Art Unit 1761